
HOUSE BILL No. 1203

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-47-3; IC 36-2-21.

Synopsis: Weapon sales on county property. Prohibits the sale of deadly weapons, ammunition, and firearm components on county property. Prohibits gun shows on county property. Provides that a resident of the county has a private cause of action to enforce these prohibitions.

Effective: July 1, 2005.

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January 6, 2005, read first time and referred to Committee on Public Safety and Homeland Security.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1203

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-47-3-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) This section
3 applies only to firearms which are not required to be registered in the
4 National Firearms Registration and Transfer Record.

5 (b) Firearms shall be returned to the rightful owner at once
6 following final disposition of the cause if a return has not already
7 occurred under the terms of IC 35-33-5. If the rightful ownership is not
8 known, the law enforcement agency holding the firearm shall make a
9 reasonable attempt to ascertain the rightful ownership and cause the
10 return of the firearm. However, nothing in this chapter shall be
11 construed as requiring the return of firearms to rightful owners who
12 have been convicted for the misuse of firearms. In such cases, the court
13 may provide for the return of the firearm in question or order that the
14 firearm be at once delivered:

- 15 (1) except as provided in subdivision (2), to the sheriff's
16 department of the county in which the offense occurred; or
17 (2) to the city or town police force that confiscated the firearm, if:

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- 1 (A) a member of the city or town police force confiscated the
 2 firearm; and
 3 (B) the city or town has a population of more than two
 4 thousand five hundred (2,500) and less than two hundred fifty
 5 thousand (250,000).
 6 (c) The receiving law enforcement agency shall dispose of firearms
 7 under subsection (b), at the discretion of the law enforcement agency,
 8 not more than one hundred twenty (120) days following receipt by use
 9 of any of the following procedures:
 10 (1) Public sale of the firearms to the general public as follows:
 11 (A) Notice of the sale shall be:
 12 (i) posted for ten (10) days in the county courthouse in a
 13 place readily accessible to the general public; and
 14 (ii) advertised in the principal newspaper of the county for
 15 two (2) days in an advertisement that appears in the
 16 newspaper at least five (5) days prior to the sale.
 17 (B) Disposition of the firearm shall be by public auction in a
 18 place convenient to the general public, with disposition going
 19 to the highest bidder. However, no firearm shall be transferred
 20 to any bidder if that bidder is not lawfully eligible to receive
 21 and possess firearms according to the laws of the United States
 22 and Indiana.
 23 (C) All handguns transferred under this subdivision shall also
 24 be transferred according to the transfer procedures set forth in
 25 this article.
 26 (D) Money collected pursuant to the sales shall first be used to
 27 defray the necessary costs of administering this subdivision
 28 with any surplus to be:
 29 (i) deposited into the receiving law enforcement agency's
 30 firearms training fund, if the law enforcement agency is a
 31 county law enforcement agency, or into a continuing
 32 education fund established under IC 5-2-8-2, if the law
 33 enforcement agency is a city or town law enforcement
 34 agency; and
 35 (ii) used by the agency exclusively for the purpose of
 36 training law enforcement officers in the proper use of
 37 firearms or other law enforcement duties, if the law
 38 enforcement agency is a county law enforcement agency, or
 39 for law enforcement purposes, if the law enforcement
 40 agency is a city or town law enforcement agency.
 41 (2) Sale of the firearms to a licensed firearms dealer as follows:
 42 (A) Notice of the sale must be:

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(i) posted for ten (10) days in the county courthouse in a place readily accessible to the general public; and

(ii) advertised in the principal newspaper of the county for two (2) days in an advertisement that appears in the newspaper at least five (5) days before the sale.

(B) Disposition of the firearm shall be by auction with disposition going to the highest bidder who is a licensed firearms dealer.

(C) Money collected from the sales shall first be used to defray the necessary costs of administering this subdivision and any surplus shall be:

(i) deposited into the receiving law enforcement agency's firearms training fund or other appropriate training activities fund; and

(ii) used by the agency exclusively for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties.

(3) Sale or transfer of the firearms to another law enforcement agency.

(4) Release to the state police department laboratory or other forensic laboratory administered by the state or a political subdivision (as defined in IC 36-1-2-13) for the purposes of research, training, and comparison in conjunction with the forensic examination of firearms evidence.

(5) Destruction of the firearms.

(d) Notwithstanding the requirement of this section mandating disposal of firearms not more than one hundred twenty (120) days following receipt, the receiving law enforcement agency may at its discretion hold firearms it may receive until a sufficient number has accumulated to defray the costs of administering this section if a delay does not exceed one hundred eighty (180) days from the date of receipt of the first firearm in the sale lot. In any event, all confiscated firearms shall be disposed of as promptly as possible.

(e) When a firearm is delivered to the state police department laboratory or other forensic laboratory under subsection (c)(4) and the state police department laboratory or other forensic laboratory determines the laboratory has no further need for the firearm in question, the laboratory shall return the firearm to the law enforcement agency for disposal under subsection (c).

(f) A sale of firearms under this section may not be held on county property (as defined in IC 36-2-21-2).

SECTION 2. IC 35-47-3-3 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This section
 2 applies to firearms that are required to be registered in the National
 3 Firearms Registration and Transfer Record.

4 (b) Firearms shall be returned to the rightful owner at once
 5 following final disposition of the cause, if such return has not already
 6 occurred under the terms of IC 35-33-5, and if such owner remains
 7 lawfully entitled to possess such firearms according to applicable
 8 United States and Indiana statutes. If rightful ownership is not known,
 9 the law enforcement agency holding the firearm shall make a
 10 reasonable and diligent effort to ascertain the rightful ownership and
 11 cause the return of the firearm being held, providing the owner remains
 12 lawfully entitled to possess such firearms.

13 (c) Firearms that are not returnable under this section shall be at
 14 once delivered to:

15 (1) the sheriff's department of the county in which the offense
 16 occurred, unless subdivision (2) applies; or

17 (2) the city or town police force that confiscated the firearm if:

18 (A) a member of the city or town police force confiscated the
 19 firearm; and

20 (B) the city or town has a population of more than two
 21 thousand five hundred (2,500) and less than two hundred fifty
 22 thousand (250,000);

23 following final disposition of the cause.

24 (d) When firearms are sent to a law enforcement agency under
 25 subsection (c), the law enforcement agency may upon request release
 26 the firearms to the state police department laboratory or other forensic
 27 laboratory administered by the state or a political subdivision (as
 28 defined in IC 36-1-2-13) for the purposes of research, training, and
 29 comparison in conjunction with the forensic examination of firearms
 30 evidence.

31 (e) The receiving law enforcement agency or laboratory shall cause
 32 the registry of such firearms in the United States National Firearms
 33 Registration and Transfer Record within thirty (30) days following
 34 receipt from the court.

35 (f) The court may order such firearms as are not returnable
 36 destroyed, specifying the exact manner of destruction and requiring the
 37 receiving law enforcement agency or laboratory to make due return to
 38 the ordering court the time, date, method of destruction, and disposition
 39 of the remains of the destroyed firearm.

40 (g) No portion of this section shall be construed as requiring the
 41 receiving law enforcement agency or laboratory to retain firearms
 42 which are inoperable or unserviceable, or which the receiving law

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enforcement agency or laboratory may choose to transfer as public property in the ordinary course of lawful commerce and exchange.

(h) A sale of firearms under this section may not be held on county property (as defined in IC 36-2-21-2).

SECTION 3. IC 36-2-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 21. Weapon Sales on County Property

Sec. 1. (a) This chapter applies to all counties.

(b) This chapter does not apply to a sale made to a:

- (1) county, for a county employee; or**
- (2) law enforcement agency.**

Sec. 2. As used in this chapter, "county property" means:

- (1) a building or another structure owned or rented by a county; and**
- (2) the grounds adjacent to and owned or rented in common with a building or another structure owned or rented by a county.**

Sec. 3. (a) The sale of the following on county property is prohibited:

- (1) A deadly weapon (as defined in IC 35-41-1-8).**
- (2) Ammunition for a firearm.**
- (3) A component of a firearm.**

(b) A gun show (as defined in 27 CFR 478.100) may not be held on county property.

Sec. 4. (a) A resident of a county has a private right of action to:

- (1) enforce and prevent violation of this chapter by the county; and**
- (2) restrain or enjoin the county from violating this chapter.**

(b) A person is not required to allege or prove irreparable harm or injury to a person or property in order to obtain relief under this section.

(c) A county is liable to a person who brings an action under this section for reasonable attorney's fees and court costs if judgment is entered by the court against the county.

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